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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11
12 **SHEFALI HARIT RANA**
43318 Debrum Common
13 Fremont, CA 94539
14
15 **Pharmacist License No. RPH 43308**
Respondent.

Case No. 4202

ACCUSATION

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about March 22, 1990, the Board of Pharmacy issued Pharmacist License
21 Number RPH 43308 to Shefali Harit Rana (Respondent). The Pharmacist License expired on
22 August 31, 2011, and has not been renewed.

23 **JURISDICTION**

24 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
25 Consumer Affairs, under the authority of the following laws. All section references are to the
26 Business and Professions Code unless otherwise indicated.

27 4. Section 4011 of the Code provides that the Board shall administer and enforce both
28 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances

1 Act [Health & Safety Code, § 11000 et seq.].

2 5. Section **4300** of the Code provides that every license issued by the Board may be
3 suspended or revoked.

4 **STATUTORY AND REGULATORY PROVISIONS**

5 6. Section **4301** of the Code provides, in pertinent part, that the Board shall take action
6 against any holder of a license that is guilty of "unprofessional conduct," defined to include, but
7 not be limited to, any of the following:

8 ...

9 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
10 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
11 whether the act is a felony or misdemeanor or not.

12 ...

13 (j) The violation of any of the statutes of this state, or any other state, or of the United
14 States regulating controlled substances and dangerous drugs.

15 ...

16 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
17 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
18 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
19 substances or of a violation of the statutes of this state regulating controlled substances or
20 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
21 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
22 The board may inquire into the circumstances surrounding the commission of the crime, in order
23 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
24 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
25 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
26 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
27 of this provision. The board may take action when the time for appeal has elapsed, or the
28 judgment of conviction has been affirmed on appeal or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
2 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
3 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
4 indictment.

5 . . .

6 7. California Code of Regulations, title 16, section 1770, states:

7 For the purpose of denial, suspension, or revocation of a personal or facility license
8 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
9 crime or act shall be considered substantially related to the qualifications, functions or duties of a
10 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
11 licensee or registrant to perform the functions authorized by his license or registration in a manner
12 consistent with the public health, safety, or welfare.

13 **CONTROLLED SUBSTANCES**

14 8. Section 4021 of the Code states:

15 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section
16 11053) of Division 10 of the Health and Safety Code.

17 9. Section 4022 of the Code states:

18 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use,
19 except veterinary drugs that are labeled as such, and includes the following:

20 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
21 prescription," "Rx only," or words of similar import.

22 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale
23 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
24 in with the designation of the practitioner licensed to use or order use of the device.

25 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
26 prescription or furnished pursuant to Section 4006.

27 10. Section 4060 of the Code states:

28 No person shall possess any controlled substance, except that furnished to a person upon

1 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
2 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
3 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
4 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
5 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
6 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
7 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
8 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
9 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
10 labeled with the name and address of the supplier or producer.

11 Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
12 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
13 devices.

14 11. California Health and Safety Code section **11170** states:

15 No person shall prescribe, administer, or furnish a controlled substance for himself.

16 12. California Health and Safety Code section **11350(a)** states:

17 "(a) Except as otherwise provided in this division, every person who possesses . . . (1) any
18 controlled substance specified in . . . subdivision (b) or (c) of Section 11055 . . . , unless upon the
19 written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this
20 state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal
21 Code. . . ."

22 13. **Methylin** is a brand name for methylphenidate, a controlled substance pursuant to
23 California Health and Safety Code section 11055(d)(6) and a dangerous drug pursuant to
24 California Business and Professions Code section 4022.

25 14. **Morphine Sulfate** is a controlled substance pursuant to California Health and Safety
26 Code section 11055(b)(1)(L) and a dangerous drug pursuant to California Business and
27 Professions Code section 4022.

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1 **COST RECOVERY**

2 15. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Criminal Conviction)

8 16. Respondent is subject to disciplinary action under Code section 4301, subsection (l),
9 in that she has been convicted of a crime substantially related to the qualifications, functions, and
10 duties of a licensee. The circumstances are as follows:

11 17. On or about February 9, 2011, in Santa Clara Superior Court case number B1151686,
12 Respondent was convicted of having violated California Penal Code section 484 (petty theft).
13 The conviction was based on an incident in which Respondent stole a bottle of Methylin tablets
14 from her employer, Pharmerica.

15 **SECOND CAUSE FOR DISCIPLINE**

16 (Act of Dishonesty)

17 18. Respondent is subject to disciplinary action under section 4301, subsection (f), in that
18 she committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption, as follows:

19 19. In December of 2010, in Mountain View, California, Respondent stole a bottle of
20 Methylin tablets from her employer, Pharmerica.

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Violation of Statutes Regulating Controlled Substances)

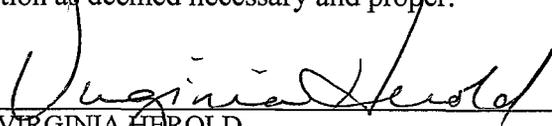
23 20. Respondent is subject to disciplinary action under section 4301, subsection (j), in that
24 she violated statutes of this state regulating controlled substances and dangerous drugs, as
25 follows:

26 21. In December of 2010, in Mountain View, California, Respondent possessed Methylin,
27 a controlled substance, without a prescription for said medication, in violation of California Penal
28 Code section 11170 and California Business and Professions Code section 4060.

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3. Taking such other and further action as deemed necessary and proper.

DATED: 3/24/12


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant